

Serial No. 10/567,148
Reply to Office Action dated July 6, 2009

Docket No. 1006/0124PUS1

REMARKS/ARGUMENTS

Favorable reconsideration and allowance of the present application is respectfully requested. Claims 1-22 are pending in the above application of which claims 1 and 22 are independent. Claim 22 has been added by the above amendment.

The Office Action dated July 6, 2009, has been received and carefully reviewed. In that Office Action, claims 1, 9, 14 and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by FR 2799695, hereinafter, "Nocera," claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Nocera in view of WO 02/072371, hereinafter "Butera," and claims 3-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nocera in view of DE 10243974, hereinafter "Burr." Claims 16-20 are indicated to be rejected on the Office Action summary page and are discussed in the body of the Office Action, but no particular prior art is applied against these claims. Each of these issues is addressed below, and reconsideration and allowance of claims 1-22 is respectfully requested in view of the following remarks.

REJECTIONS UNDER 35 U.S.C. 102(b)

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nocera. Claim 1 recites, *inter alia*, an air vent with an air-supplying air duct and with an air conduction device. The air duct in the air conduction device is divided into at least two essentially cylindrical subducts, and the cylindrical subducts are arranged parallel with respect to one another. The Office Action indicates that the elements of claim 1 are disclosed in Nocera. However, Nocera does not disclose at least two subducts arranged parallel with respect to one another as recited in claim 1, and claim 1 is submitted to be

Serial No. 10/567,148
Reply to Office Action dated July 6, 2009

Docket No. 1006/0124PUS1

allowable over Nocera for at least this reason.

The Office Action refers to elements 2A and 2B of Nocera as essentially cylindrical subducts of duct 9. It is respectfully submitted that elements 2A and 2B of Nocera are rotatable members that surround the end portions of ducts 9A and 9B respectively. See, e.g., Figure 4 of Nocera and the machine-generated English translation of Nocera provided herewith. These rotatable members do not conduct air and would not be referred to as "ducts" much less "subducts" of some unspecified duct under any reasonable interpretation of these terms. Furthermore, the ducts 9A and 9B of Nocera are not parallel. Rotatable members 2A and 2B are not ducts, ducts 9A and 9B are not parallel, and claim 1 is submitted to be allowable over Nocera for at least this reason.

If the rejection of claim 1 is not withdrawn, it is respectfully requested that the examiner explain how rotatable members 2A and 2B are being interpreted as ducts and identify the duct of which they are believed to be subducts so that the basis for this rejection can be better understood.

Claims 2-21 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

REJECTIONS UNDER 35 U.S.C. 103(a)

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nocera in view of Butera. Claim 2 depends from claim 1. Butera does not address the shortcomings of Nocera discussed above in connection with claim 1. Claim 2 is therefore submitted to be allowable for at least the same reasons as claim 1.

Serial No. 10/567,148
Reply to Office Action dated July 6, 2009

Docket No. 1006/0124PUS1

It is also respectfully submitted that the rejection of claim 2 does not constitute a *prima facie* case of obviousness and that claim 2 is allowable over Nocera in view of Butera for this reason as well. Section 706.02(j) of the MPEP requires that, to support a rejection under 35 U.S.C. 103(a), the examiner must identify the claim element that is missing from a primary reference and identify "the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter." In the present case, the Office Action merely indicates that Nocera should somehow be "modified with the Butera 4 air streams in order to have more vent openings." The meaning of this statement is not clear. It is not clear, for example, whether the examiner is proposing to add additional ducts like ducts 9A, 9B to Nocera or to somehow subdivide Nocera's existing ducts.

It is also submitted that a reason for modifying Nocera based on Butera has not been provided and that nothing about Butera suggests any modification to Nocera. The Office Action indicates that the proposed modification will "improve ventilation in the vehicle cabin," but there is nothing in the record to support this statement. A further division of the air flow in Nocera, for example, could potentially reduce overall air flow or prevent air from flowing as intended and thus worsen the air flow in a vehicle interior. If the rejection of claim 2 is not withdrawn, it is respectfully requested that in addition to describing the specific modification to Nocera being proposed, the examiner also explain why it is believed that such a modification would improve ventilation in a vehicle cabin so that the basis for this rejection can be better understood.

Claims 3-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nocera in view of Burr. Claims 3-15 depend from claim 1. Burr does not address the

Serial No. 10/567,148
Reply to Office Action dated July 6, 2009

Docket No. 1006/0124PUS1

shortcomings of Nocera discussed above in connection with claim 1. Claims 3-15 are therefore submitted to be allowable for at least the same reasons as claim 1.

CLAIMS 16-20

Claims 16-20 also depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

The rejection of claims 16-20 is also respectfully traversed because no art has been applied against these claims. The discussion of claims 16-20 follows several rejections based on Nocera and Burr; however, these references are not in any manner applied to the inventions of claims 16-20. It is therefore respectfully submitted that a *prima facie* rejection has not been presented under either 35 U.S.C. 102(b) or 35 U.S.C. 103(a) and that claims 16-20 are allowable.

Claim 16 recites a method for controlling the air outflow of an air vent as claimed in claim 1. It is respectfully submitted that, even if a reference existed that showed the structural features of the air vent of claim 1, the examiner would still need to produce a reference or present arguments to show each action recited in the method claim was shown in or obvious in view of the disclosure of one or more references. In other words, the existence of an air vent as recited in claim 1 would not render obvious every method of using an air vent as recited in claim 1. Claim 16 recites a method that includes alternately opening and closing metering devices of first and second air ducts by means of a control device. Such a method is not shown in any of the art of record. Claim 17 further recites openings and closings that take place in an oscillating manner. These actions are not shown or suggested by the art of record, and claims 16-20 are

Serial No. 10/567,148
Reply to Office Action dated July 6, 2009

Docket No. 1006/0124PUS1

submitted to be allowable for at least this reason.

If claims 16-20 are not indicated to be allowable in a further Office Action, it is respectfully submitted that the examiner identify the ground for rejecting these claims in the record. It is also respectfully requested that the examiner identify the statute or case law that justifies a rejection of a method claim on the ground that "to the extent that the claimed apparatus performs the claimed method, the applied prior art apparatus performs the claimed method as well." A prima facie rejection has not been presented in connection with claims 16, and claim 16 is submitted to be allowable. Claims 17-20 depend from claim 16 and are submitted to be allowable for at least the same reasons as claim 16.

NEW CLAIM

New claim 22 is also submitted to be allowable over the art of record. Claim 22 recites an air vent with an air conduction device and an air-supplying air duct in the air conduction device, the air duct being divided into at least two essentially cylindrical subducts each having a centerline, the centerlines of the at least two essentially cylindrical subducts being mutually parallel. Essentially cylindrical subducts having parallel centerlines are not shown or suggested by the art of record, and claim 22 is submitted to be allowable for at least this reason.

CONCLUSION

Each issue raised in the Office Action dated July 6, 2009, has been addressed, and it is believed that claims 1-22 are in condition for allowance. Wherefore,

Serial No. 10/567,148
Reply to Office Action dated July 6, 2009

Docket No. 1006/0124PUS1

reconsideration and allowance of these claims is earnestly solicited. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact the undersigned attorney at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,



Martin R. Geissler
Registration No. 51011

PO BOX 1364
Fairfax, VA 22038-1364
1.703.621.7140

Date: October 5, 2009